



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

September 30, 2008

Maya Rao, P.E., Chief
Office of Pollution Control
Air Division
Mississippi Department of
Environmental Quality
P.O. Box 10385
Jackson, Mississippi 39289-0385

Dear Ms Rao:

This correspondence is being sent to provide you with an official final copy of the Environmental Protection Agency (EPA) Region 4 report, which was completed as a result of the EPA Title V program evaluation conducted on June 9 – 10, 2008. The purpose of this program review was to evaluate the status and the ability of the Mississippi Department of Environmental Quality (MDEQ) to carry out the duties and responsibilities required to effectively run the title V program, as well as find out how EPA can best assist the MDEQ in meeting these commitments.

We would like to take this opportunity to commend the MDEQ staff for the effective implementation of the title V program. EPA Region 4 looks forward to continuing to work closely with the MDEQ to maintain an effective Title V program.

If you or your staff have any questions regarding the report, please do not hesitate to contact Randy Terry of the EPA Region 4 staff at (404) 562-9032.

Sincerely,

A handwritten signature in black ink, which appears to read "Carol G. Kember for". The signature is written in a cursive, flowing style.

Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division

Enclosure

Mississippi Department of Environmental Quality Title V Program Review

The initial Mississippi Department of Environmental Quality (MDEQ) title V program review was conducted September 13th-14th and October 20th-21st, 2004 in Jackson, Mississippi and is kept on file at the U.S. Environmental Protection Agency Region 4 (EPA) office in Atlanta, Georgia. Based on the information gathered from the title V program evaluations and the implementation of new title V permit requirements, EPA committed to conduct a second round of title V program reviews for all state and local programs that had at least 20 title V major sources within their jurisdiction by the end of FY 2010.

The second program evaluation of the MDEQ title V program was conducted on June 9 – 10, 2008, in Jackson Mississippi. Prior to EPA's arrival MDEQ was provided with a list of eight title V sources, including three with compliance assurance monitoring (CAM) plans that EPA planned to review as part of the program evaluation. An entrance interview between EPA and key staff of MDEQ was conducted, where EPA explained the areas that Region 4 would be evaluating during their State office visit. The following parties attended the initial meeting: Randy Terry (EPA Region 4); Brandi Jenkins (EPA Region 4); Yolanda Adams (EPA Region 4); Sean Lakeman (EPA Region 4); Dan McLeod (MDEQ); and Scott Hodges (MDEQ).

Program Review

MDEQ's organizational structure for air permitting resides at the central office in Jackson. All title V permits are processed in the Jackson office.

EPA's review of the MDEQ title V program focused on programmatic knowledge/implementation, resources (both human and capital), and file review.

EPA appreciated MDEQ efforts to aid the evaluation process by providing an answered copy of the program review questionnaire prior to the meeting. For many questionnaire items, the answers provided by MDEQ are more detailed than indicated in the summary discussion below. The answered questionnaire from MDEQ will be on file at EPA Region 4 for reference.

Programmatic Knowledge/ Implementation

During discussions of the title V questionnaire and prior discussions, it was clear that MDEQ senior staff has a thorough knowledge and understanding of title V program requirements. Facilitation of that knowledge throughout the staff is important to continue to produce high quality permits that are clear and practically enforceable. MDEQ has established a comprehensive written training program to ensure knowledge consistency throughout their organization. In addition to their staff training plans, MDEQ has implemented a formal training program designed for succession planning. Implementation of training plans such as this will help ensure that not only programmatic knowledge is retained but also programmatic leadership and direction.

Resources

MDEQ is organized to utilize a multi-media approach to regulating and permitting facilities. All MDEQ permit managers perform multi-media permitting and are not exclusive to writing title V permits. MDEQ currently funds 22.29 title V full time equivalent (FTE) positions. In order to track the time MDEQ staff allocates to title V activities, MDEQ utilizes an electronic time entry database. Each employee is required to maintain their electronic timesheet, which reflects how their time was spent. The timesheet allows for information to be included in one hour increments. These timesheets are printed on a monthly basis and approved by the designated managers.

During the program review, MDEQ informed EPA that a backlog of title V permitting actions had developed since the initial program evaluation. As of May 29, 2008, MDEQ had 31 title V renewal applications in-house older than 18 months. Since the initial program evaluation in 2004, MDEQ has experienced a staff turnover rate of between five and ten percent on an annual basis. While not a large turnover rate, it has been one of the contributing factors in the buildup of the bottleneck with regards to permit issuance. EPA has some concerns about the possibility of this backlog of title V applications continuing to grow as other permitting actions consume an increasingly larger percentage of their permit writer's available time. During discussions on this issue, MDEQ noted that they had already initiated multiple steps to eliminate the backlog and

ensure that an adequate number of staff FTEs are dedicated to title V. Steps to address these issues include both short and long range plans. To address short term workload spikes MDEQ has the ability to utilize contract employees. To address the long range plan of increase workload, MDEQ has requested and received hiring authority to hire 6 new title V FTE positions. In addition, MDEQ detailed to EPA the implementation of a succession plan to ensure that the effect of losing senior staff members in the future would be better mitigated.

MDEQ assesses title V fees for each title V major source based on either actual emissions for the previous calendar year, or allowable emissions applicable on September 1 (the date the fee is due). Annual emission reporting forms (AERF) and associated instructions are sent to each source annually allowing the source the opportunity to report and opt for the fee to be based on actual emissions. If an acceptable AERF is not submitted, the default basis for the fee is allowable emissions. The AERF is due to MDEQ by July 1st each year. The title V fee for FY08 is \$31 per ton but will increase to \$36 per ton for FY09.

EPA also took a detailed look at MDEQ budget and accounting practices for implementation of their title V program. During this review, EPA observed that the MDEQ was adequately tracking all of their title V fees and using appropriate codes to separate title V expenditures from non-title V expenditures. MDEQ also uses a separate account to house their title V funds which allows for a greater level of scrutiny when evaluating title V revenue and expenditures. Title V expenditures are tracked through divisional codes specific to the title V program. These codes are specifically assigned to each division performing some form of activity related to the title V program. These expenditures are also tracked by the categories of salary, fringe, travel, equipment, supplies, and indirect.

Renewal Permits and File Review

At the time of the program evaluation MDEQ had issued all of its initial title V permits with the exception of Chevron. MDEQ has submitted parts of the Chevron permit to EPA for pre-draft review and believes they will have the draft permit ready for issuance during 2009.

As of May 29, 2008, MDEQ had 49 renewal applications in house ready to be processed. Of those applications submitted, 88 percent were deemed timely and complete. Of those 49 permits in house to be processed, 31 of them are older than 18 months and constitute a backlog. Reasons for the backlog include the recent vacature of various maximum achievable control technology (MACT) standards such as the boiler MACT and sources that continue to explore ways of making their facilities more flexible to maintain their competitiveness in the open market. This flexibility means that MDEQ is receiving more New Source Review (NSR) actions which, in many cases, slows down the renewal process of the title V permit. Facilities want these new projects included in the title V permit and want a permit shield for the project. In order to do this, rather than proceeding via the significant modification procedures, many of these modifications are grouped together and handled during the renewal process, which often results in slowing down the permitting process. MDEQ has noted the buildup of the permitting backlog and began implementing several measures to reduce the size of the backlog including the hiring of additional staff and the use of contract employees. As a result of implementing

these measures, MDEQ has reduced their permitting backlog from 38 applications older than 18 months as of June 2007 to 31 applications. These measures should continue to allow MDEQ to reduce and eventually eliminate their backlog.

Permit Terms and Conditions

EPA conducted a detailed review of five MDEQ title V permits and reviewed the CAM plans for three additional title V permits. The permit files selected included a cross section of sources across several industry sectors. The comments EPA noted during the review were varied and permit specific in nature and did not indicate a trend. EPA and MDEQ agreed to handle all permit specific comments outside of the program evaluation, as the program evaluation is designed to evaluate the totality of MDEQ title V permitting process.

During the permits review, EPA noted that MDEQ's permits are well organized, easy to read and practically enforceable. The use of summary tables within the permits provides a good snapshot of all applicable requirements contained in the permit. The statement of basis continues to be a well organized document which includes critical information such as applicability determinations (CAM, prevention of significant deterioration, MACT), non-applicability of requirements that could potentially apply, details of modifications, and documentation of monitoring decisions.

CAM Applicability - Exemptions

There still seems to be some confusion regarding the applicability of CAM. Three of the eight permits reviewed for permit content appear to contain inaccurate determinations in the statement of basis regarding CAM applicability.

EPA staff reviewed three permits that contained CAM plans, (1) Mississippi Power Company – Plant Daniels, (2) Tronox, LLC – Hamilton Facility, and (3) PYCO, LLC. The contents of the CAM plans were reviewed to determine compliance with 40 CFR part 64 requirements; as well as an administrative review conducted to ensure each met the submittal requirements of part 64.

Two of the three facilities selected for EPA review did not have a CAM plan included with the title V application. As required in part 64, a CAM plan is considered part of the title V application at the appropriate submittal time (*i.e.*, at the time of renewal or significant modification). However, the CAM plans were either attached as an appendix to the title V permit or included in the body of the permit and EPA was able to review them. One of the applications for Tronox, LLC did not contain a comprehensive CAM plan. The plan was missing information and Region 4 staff could not determine if this was due to a filing error or if the title V application was submitted incomplete. If the CAM plan did not accompany the application, then, as required by part 64.5, the title V application should have been deemed incomplete.

During the review, EPA noted that MDEQ was including the appropriate indicators, testing requirements, and indicator ranges in the plans that were available for review. However, EPA staff noted that the title V permits were not consistent in the incorporation of other CAM

requirements (*i.e.*, the permit did not include standard boiler plate language in the permits). The goal of part 64 is for the owner/operator to maintain control device operation at a level that provides a reasonable assurance of compliance. Part 64.6(c) stipulates that the title V permit shall contain "one or more permit terms or conditions that specify the required monitoring in accordance with 40 CFR part 70.6(a)(3)(i)." Title V permits, at a minimum, must contain the following information: 1) approved monitoring approach; 2) what is considered an excursion or exceedance; 3) the obligation of the owner/operator to conduct monitoring; 4) the minimum data availability and averaging requirements; and 5) the deadlines for testing, installation, and final data verification. In addition, the permit should contain language that definitively conveys the responsibility of the owner/operator to comply with these requirements. If necessary, EPA can assist MDEQ with additional language that clearly conveys the obligation of the owner/operator.

Region 4 would like to commend MDEQ on the appropriateness of the selected indicators, testing requirements, and indicator ranges in the plans that were available for a comprehensive review. Region 4 also notes that MDEQ has extensive CAM knowledge but is requesting basic CAM training, as well as a CAM refresher for more experienced permit writers.

Conclusion

At the conclusion of the onsite portion of the title V program review, Region 4 personnel met with key MDEQ officials to conduct an exit interview. During this exit interview Region 4 shared the findings of the review. Personnel in attendance from EPA Region 4 were Randy Terry, Sean Lakeman, Yolanda Adams, and Brandi Jenkins. MDEQ officials in attendance included Dan McLeod, Harry Wilson, Toby Cook, and Tracy Tomkins.

Overall, MDEQ has demonstrated to EPA that it is meeting the requirements of 40 CFR part 70 and EPA looks forward to working with MDEQ in the future.